REMARKS

Claims 1-16 were pending in the application. Claims 1-10 are being amended. Claims 11-16 are being canceled. Amendments to claim 1 are based on language of paragraph 28 as published. Amendments to claim 9 are based on language of paragraph 29 as published. New claims 17-26 are being added. The language of new claim 23 is based on the language of paragraph 24 as published whereas the language of claim 24 is based on the language of paragraphs 27-29 as published. The language of new claims 25, 26 is based on the language of paragraph 29 as published.

Priority under 35 U.S.C. § 119

Applicant notes that the Examiner has acknowledged Applicant's claim for foreign priority under 35 U.S.C. § 119 to Polish Patent Application No. P-358051, filed December 30, 2002, and confirmed that "some" certified copies of the priority documents have been received. Since Applicant has claimed priority to only one document, it appears that all certified copies of the priority documents have been received by the Office. Clarification and correction of PTOL-326 is respectfully requested.

IDS

Applicant notes with appreciation that the Examiner has considered the information disclosure statement (IDS) submitted on December 30, 2003.

All outstanding requirements will now be addressed in the order they appear in the Office Action mailed October 5, 2007.

Claims 1, 2, 9-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Plotnick, Michael A., US patent No. US 20020144262 A1, which discloses a system of transmission of television programs with a variable number of advertisements. In addition claims 5 6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, whereas claims 3, 4, 7

and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, US patent
No. US 20020144262 A1, and further in view of Fujita, US patent no. US 20050201721 A1.

The Applicant respectfully disagrees.

US patent application publication No. US 20020144262 to Plotnick discloses a system in
which advertisements are inserted into avails in a received stream and when the received and
stored stream is played back from a memory of a PVR, previously stored advertisements are
inserted into avails. Therefore the solution of Plotnick is not able to display inserted
advertisements during a <u>live</u> presentation of broadcasted content.

US patent application publication US 20050201721 to Fujita discloses a system for removal
of advertisement of programming content on a tape. In order to remove the advertisement,
the programming content is copied to a hard disk and processed so that output programming,
containing no advertisement, can be stored the tape. Therefore, the solution of Fujita is also
applicable to a playback system and not only to a broadcast live data reception system.

It is evident that Plotnick discloses advertisement insertion whereas Fujita recites
advertisement cut-off. Thus, since the both publication are directed to different problems, a
skilled artisan would have no motivation to combine Plotnick and Fujita teachings. However,
even if, for the sake of argument, a skilled person would manage to combine both solutions,
he would not arrive at the presently claimed invention. The combination of both solutions
would result in a cut-off of avails at a playback time.

On the contrary, the present invention is directed to insertion of advertisement at the time of
a live broadcast reception. Therefore, at the time when an advertisement is to be displayed,
the live audio/video programming content is played back while a new broadcast content is
typically still being stored.

In addition, Applicant submits that in Figs. 14A-B Plotnick illustrates several exemplary embodiments where advertisements (1410) (in a preferred embodiment targeted advertisements) and an ad queue (1420) are stored on the PVR (1250). The video stream (1210) from the video server (1200) includes avails (1400) which are blank or avails with default ads available for replacement with targeted ads. The PVR (1250) inserts the ads (1410) in the avails (1400) based on the ad queue (1420). The ad queue (1420) is a list of the next ads (1410) that should be inserted. It is apparent that Plotnick's solution has avails and recording in the background is not present.

Furthermore, Applicant submits that Fig. 11 shows that the tape has recorded thereon programs A, B and C, four CMs between programs A and B, and two CMs between programs B and C. The HDD unit skips over the CMs and reads the programs, which are then recorded on the magnetic tape. When the magnetic tape is reproduced, it has no CMs recorded, and thus only the programs A, B and C are continuously reproduced (Fig. 11). Alternatively, the programs and the CMs are all recorded on the magnetic tape, and at the time of reproduction the HDD unit buffers those data, and instantly removes (cuts off, reproduces for quick seeing, fast forwards) the CMs on the basis of the CM information decided by the above method, as shown in Fig. 12. Thereby the programs A, B and C are being reproduced as if they were continuous. Fujita's solution has no relation to the live feed, ads are removed not inserted, and ads are in the video of the primary content.

Applicant respectfully requests withdrawal of the rejection with respect to claims 1-8, and claim 10 as amended in view of the arguments presented above.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. Should an extension of time be required, Applicant hereby petitions for same and

request that the extension fee and any other fee required for timely consideration of this

submission be charged to **Deposit Account No. 503182**.

                                                                Respectfully Submitted,

Customer Number: **33,794**

                                                                /Matthias Scholl/

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Date: <u>January 4, 2008</u>